

901:10-3-01 Additional requirements for a NPDES permit application.

(J) Concentrated animal feeding operations must have or seek to obtain coverage under a NPDES permit within the time frame provided in accordance with 40 C.F.R. 122.23(f) and in division (J) of section 903.08 of the Revised Code.

(B) Unless otherwise indicated, the application for an individual NPDES permit and the NPDES permit (if issued by the director) shall contain the following information:

(1) The information required in rule 901:10-1-02 of the Administrative Code for NPDES permits.

(2) To the extent required by federal law, a manure management plan that complies with the requirements of rules 901:10-2-08 to 901:10-2-11, 901:10-2-13 to 901:10-2-16 and rule 901:10-2-18 of the Administrative Code.

(a) Inspections required in rule 901:10-2-08 of the Administrative Code.

(b) Information on nutrient budget, manure characterization, soil tests, distribution and utilization methods for manure (if applicable to the facility), and land application of manure as required in rules 901:10-2-09 to 901:10-2-14 of the Administrative Code.

(3) An operating record developed in accordance with rule 901:10-2-16 of the Administrative Code with the use of forms prescribed by the director and other forms selected by the owner or operator for the facility and approved by the director. The operating record shall be maintained at the site office at all times. Upon approval of the NPDES permit, the operating record shall be deemed part of the NPDES permit.

(4) An emergency response plan containing the information required in rule 901:10-2-17 of the Administrative Code.

(C) Any person who discharges or proposes to discharge pollutants and who does not have an effective NPDES permit, except persons covered by a general NPDES permit, must submit a complete application to the director in accordance with this rule. The director shall not issue a NPDES permit before receiving a complete application for a NPDES permit except NPDES general permits. An application for a NPDES permit is complete when the director receives an application form and any supplemental information which are completed to his or her satisfaction. All applicants for NPDES permits must provide the following information to the director:

(1) The activities conducted by the applicant, which require it to obtain a NPDES permit;

(2) The following information about the applicant's facilities:

(a) Information about the number and type of animals, whether in open confinement or housed under roof (beef cattle, broilers, layers, chickens other than layers, swine weighing fifty-five pounds or more, swine weighing less than fifty-five pounds, mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses, ducks, turkeys, other);

(b) The types of manure storage areas, waste containment areas, and total capacity for manure storage (tons/gallons);

- (c) The total number of acres under control of the applicant available for land application of manure;
 - (d) Estimated amounts of manure generated per year (tons/gallons);
 - e) Estimated amounts of manure transferred to other persons per year (tons/gallons); and
 - (f) For operations that must seek coverage under a permit after December 31, 2006, certification that a nutrient management plan has been completed and will be implemented upon the date of permit coverage.
- (3) The name and address of the owner and operator and information required by paragraph (C)(1) of rule 901:10-2-01 of the Administrative Code;
- (4) Whether the operation is located on Indian lands;
- (5) A listing of all permits or construction approvals received or applied for under any of the following programs:
- (a) Hazardous waste management program under the Resource Conservation and Recovery Act (RCRA);
 - (b) Underground injection control (UIC) program under the Safe Drinking Water Act (SDWA);
 - (c) The "Prevention of Significant Deterioration" (PSD) program under the Clean Air Act;
 - (d) Non-attainment program under the Clean Air Act;
 - (e) "National Emissions Standards for Hazardous Pollutants" (NESHAPS) preconstruction approval under the Clean Air Act;
 - (f) Dredge or fill permits under section 404 of the Clean Water Act;
 - (g) Other relevant environmental permits, including state permits;
- (6) Latitude and longitude of the production area (entrance to the production area); and
- (7) A topographic map of the geographic area in which the concentrated animal feeding operation is located showing the specific location of the production area.
- (D) Purpose and applicability of the individual NPDES permit.

Persons that have been issued a NPDES permit by the director are required to comply with the following requirements as determined by the director:

- (1) Rule 901:10-3-10 of the Administrative Code;
- (2) Rules 901:10-3-02 to 901:10-3-06 of the Administrative Code;
- (3) Applicable water quality standards adopted under section 6111.041 of the Revised Code;
- (4) National standards of performance for new sources;
- e) The antidegradation policy adopted under section 6111.12 of the Revised Code;
- (6) Other applicable requirements of the act; and,
- (7) The terms of the concentrated animal feeding operation's manure management plan. For purposes of

NPDES permitting, the terms of the manure management plan are the information, protocols, best management practices, and other conditions in the manure management plan determined by the director to be necessary to meet the following requirements:

(.) Ensure adequate storage of manure, including procedures to ensure proper operation and maintenance of manure storage or treatment facilities. These requirements include the operating levels, freeboard, and inspections for manure storage or treatment facilities established in the manure management plan pursuant to paragraphs (D)(1) to (D)(3) and (D)(5) to (D)(7) of rule 901:10-2-08 of the Administrative Code;

(b) Ensure proper management of livestock mortalities as required in paragraph (A)(4)(m) of rule 901:10-2-08 and rule 901:10-2-15 of the Administrative Code to ensure that there shall be no discharge of pollutants from mortalities to waters of the state and no disposal in a manure or storm water storage or treatment facility that is not specifically designed to treat animal mortalities;

(c) Ensure that clean water is diverted, as appropriate, from the production area, in accordance with paragraph (D)(8) of rule 901:10-2-08 of the Administrative Code;

(d) Prohibit direct contact of confined animals with waters of the state as required in paragraph (A) of rule 901:10-2-08 of the Administrative Code;

(e) Ensure that chemicals and other contaminants handled on-site are not disposed of in any manure or storm water storage or treatment facility that is not specifically designed to treat such chemicals and other contaminants, as required by paragraph (D)(4) of rule 901:10-2-08 of the Administrative Code;

(f) Identify appropriate site specific conservation practices to be implemented, including as appropriate buffers or equivalent practices, to control runoff of pollutants to waters of the state, as required in paragraph (D)(8) of rule 901:10-2-08 of the Administrative Code;

(g) Identify the protocols for appropriate testing of manure and soil as required in rules 901:10-2-10 and 901:10-2-13 of the Administrative Code;

(h) Identify specific records that will be maintained as required by paragraphs (A)(1)(a) to (A)(1)(f), (A)(1)(k) to (A)(1)(l), (A)(2), (A)(3)(b) to (A)(3)(s), and (A)(6) of rule 901:10-2-16, to the extent they are applicable to the facility's manure management plan;

(i) Establish protocols to land apply manure in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure. The terms of the manure management plan, with respect to protocols for land application of manure, include the land application areas identified as available pursuant to paragraph (C) of rule 901:10-2-09 of the Administrative Code; the field-specific rates of application properly developed, pursuant to the requirements of rule 901:10-2-14 of the Administrative Code, to ensure appropriate agricultural utilization of the nutrients in the manure; and any timing limitations identified in the manure management plan concerning land application on the land application areas. The terms must address rates of application using the approach set forth below, consistent with the requirements of rule 901:10-2-14 of the Administrative Code.

(.) The terms include the maximum amounts of nitrogen and phosphorus derived from all sources of nutrients, for each crop identified in the manure management plan, in chemical forms determined to be acceptable to the Director, in pounds per acre, for each land application area, and certain factors necessary to determine such amounts. At a minimum, the factors that are terms must include: the

outcome of the field-specific assessment of the potential for nitrogen and phosphorus transport from each field determined pursuant to paragraphs (D) and (E) of rule 901:10-2-14 of the Administrative Code; the planned crops to be planted in each field or any other uses such as pasture or fallow fields (including alternative crops identified in accordance with paragraph (D)(1)(g)(ix)(b) of this rule; the realistic yield goal for each crop or use identified for each land application area; and the nitrogen and phosphorus recommendations from appendix C, tables 1, 2, or 3 of rule 901:10-2-14 of the Administrative Code for each crop or use identified for each field. In addition, the terms include the methodology by which the manure management plan accounts for the following factors when calculating the amounts of manure to be land applied: Results of soil tests; credits for all nitrogen in the field that will be plant available; the amount of nitrogen and phosphorus in the manure to be applied; consideration of multi-year phosphorus application; accounting for all other additions of plant available nitrogen and phosphorus to the field; the form and source of manure; the timing and method of land application; and volatilization of nitrogen and mineralization of organic nitrogen. The methodology that must be used to account for each of these factors is set forth in rules 901:10-2-13 and 901:10-2-14 of the Administrative Code.

(ii) The terms of the nutrient management plan include alternative crops identified in the concentrated animal feeding operation's manure management plan that are not in the planned crop rotation. Where a concentrated animal feeding operation includes alternative crops in its manure management plan, the crops must be listed by land application area, in addition to the crops identified in the planned crop rotation for that land application area, and the manure management plan must include realistic crop yield goals and the nitrogen and phosphorus recommendations from appendix C, tables 1, 2, or 3 of rule 901:10-2-14 of the Administrative Code for each crop. Maximum amounts of nitrogen and phosphorus from all sources of nutrients and the amounts of manure to be applied must be determined in accordance with the methodology identified in paragraph (D)(1)(g)(ix)(a).

(iii) The following projections must be included in the manure management plan submitted to the director, but are not terms of the nutrient management plan: The concentrated animal feeding operation's planned crop rotations for each field for the period of permit coverage; the projected amount of manure to be applied; projected credits for all nitrogen in the field that will be plant available; consideration of multi-year phosphorus application; accounting for all other additions of plant available nitrogen and phosphorus to the field; and the predicted form, source, and method of application of manure, litter, and process wastewater for each crop. Timing of application for each field, insofar as it concerns the calculation of rates of application, is not a term of the manure management plan.

(iv) Concentrated animal feeding operations must calculate maximum amounts of manure to be land applied at least once each year using the methodology identified in paragraph (D)(1)(g)(ix)(a) of this rule before land applying manure and must rely on the following data:

(a) A field-specific determination of soil levels of nitrogen and phosphorus, including, for nitrogen, a concurrent determination of nitrogen that will be plant available consistent with the methodology required by paragraph (D)(1)(g)(ix)(a) of this rule, and for phosphorus, the results of the most recent soil test conducted in accordance with the soil testing requirements set forth in rule 901:10-2-13 of the Administrative Code; and

(b) The results of most recent representative manure tests for nitrogen and phosphorus taken within twelve months of the date of land application in accordance with rule 901:10-2-10 of the Administrative Code, in order to determine the amount of nitrogen and phosphorus in the manure to be applied.

(E) In establishing the terms and conditions of the NPDES permit, the director, to the extent consistent with the act, shall consider technical feasibility and economic costs and shall allow a reasonable period of

time for coming into compliance with the permit.

(F) In addition to conditions required in all permits to meet the requirements of rule 901:10-3-10 of the Administrative Code, the director shall establish conditions, as required on a case-by-case basis, to provide for and assure compliance with all applicable requirements of the act and regulations. These shall include conditions under 40 CFR sections 122.44 , 122.46 , 122.47 , 122.48 and 40 CFR Part 132 which establishes compliance schedules and authority to set interim compliance dates.

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Promulgated Under: 119.03

Statutory Authority: 903.08 , 903.10

Rule Amplifies: 903.01 , 903.08 , 903.09 , 903.10

Prior Effective Dates: 9/1/2011, 1/23/2009, 1/29/2007, 9/15/2005

901:10-3-02 Effluent limitations definitions and applicability.

(A) Rules 901:10-3-02 to 901:10-3-11 of the Administrative Code are applicable to concentrated animal feeding operations that are subject to a NPDES permit and establish effluent limitations for both the production area and the land application area as those terms are defined in section 903.01 of the Revised Code. The discharge of manure to waters of the state by the owner or operator of a concentrated animal feeding operation from land application areas under the control of the owner or operator, is a discharge from that concentrated animal feeding operation and subject to a NPDES permit unless the discharge is an agricultural stormwater discharge. Where the manure has been applied in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of nutrients in manure in compliance with the best management practices set forth in Chapter 901:10-2 of the Administrative Code, then a precipitation-related discharge of manure from land application areas under the control of an owner or operator is an agricultural stormwater discharge. Large concentrated animal feeding operations that lack a NPDES permit must maintain the records specified in rule 901:10-2-16 of the Administrative Code either on site or at a nearby office, and make the records readily available to the director upon request.

(B) An animal feeding facility is defined as a concentrated animal feeding operation if the specific threshold specified in division (M) of section 903.01 of the Revised Code is met for any one animal species. "Concentrated animal feeding operation" also means any animal feeding facility that meets the criteria of division (Q) or division (FF) of section 903.01 of the Revised Code. Once an operation is defined as a concentrated animal feeding operation, the NPDES requirements apply with respect to all animals in confinement at the operation and all manure generated by those animals or the production of those animals, regardless of the type of animal.

(C) Best practicable control technology currently available or BPT means the degree of effluent reduction attainable through the application of the best control measures and practices currently available which shall be determined by taking into account the total cost of application of technology in relation to the effluent reduction benefits to be achieved from such application, the age of the equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, non-water quality environmental impacts (including energy requirements) and such other factors as deemed appropriate.

(D) Best available technology economically achievable or BAT means the degree of effluent reduction attainable through the application of the best control measures and practices achievable including treatment techniques, process and procedure innovations, operating methods and other alternatives. BAT shall be determined by taking into account the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, the cost of achieving such effluent reduction, non-water quality environmental impacts (including energy requirements) and such other factors as deemed appropriate.

(E) Any facility or operation subject to Chapter 903. of the Revised Code that introduces manure, including process wastewater, into a publicly owned treatment works must comply with 40 CFR part 403 and Chapter 6111. of the Revised Code and rules promulgated thereunder.

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Prior Effective Dates: 7/2/2002, 1/23/2009

901:10-3-03 Horses and sheep.

This rule applies to discharges resulting from the production areas at horse and sheep concentrated animal feeding operations. This rule does not apply to such concentrated animal feeding operations with less than the following capacities: ten thousand sheep or five hundred horses.

(A) Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).

(1) Except as provided in rule 901:10-3-08 of the Administrative Code, and subject to the provisions of paragraph (A)(2) of this rule, any existing point source subject to this rule must achieve the following effluent limitations representing the application of BPT: there shall be no discharge of manure to waters of the state.

(2) Manure in the overflow may be discharged to waters of the state whenever rainfall events, either chronic or catastrophic, cause an overflow of manure from a facility designed, constructed and operated to contain all manure plus the runoff from a ten-year, twenty-four hour rainfall event for the location of the point source.

(B) Effluent limitations attainable by the application of the best available technology economically achievable (BAT).

(1)

(1) Except as provided in rule 901:10-3-08 of the Administrative Code, and when the provisions of paragraph (B)(2) of this rule apply, any existing point source subject to the rule must achieve the following effluent limitations representing the application of BAT: there shall be no discharge of manure into waters of the state.

(2) Whenever rainfall events cause an overflow of manure from a facility designed, constructed, operated, and maintained to contain all manure plus the runoff from a twenty-five year, twenty-four hour rainfall event at the location of the point source, any manure in the overflow may be discharged into waters of the state.

(C) Standards of performance for new sources (new source performance standards or "NSPS").

(1) Except as provided in paragraph (C)(2) of this rule, any new source subject to this rule must achieve the following performance standards: there must be no discharge of manure to waters of the state.

(2) Whenever rainfall events cause an overflow of manure from a facility designed, constructed, operated, and maintained to contain all manure plus the runoff from a twenty-five year, twenty-four hour rainfall event at the location of the point source, any manure in the overflow may be discharged into waters of the state.

Replaces: 901:10-3-03

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Prior Effective Dates: 7/2/2002, 9/15/2005

901:10-3-04 Dairy cows and cattle other than veal calves.

This rule applies to operations defined as concentrated animal feeding operations under division (F) of section 903.01 of the Revised Code and includes the following animals: mature dairy cows, either milking or dry; cattle other than mature dairy cows or veal calves. Cattle other than mature dairy cows includes but is not limited to heifers, steers, and bulls. This rule does not apply to such concentrated animal feeding operations with less than the following capacities: seven hundred mature dairy cows whether milked or dry; one thousand cattle other than mature dairy cows or veal calves.

(A) Effluent limitations attainable by the application of the best practicable control technology currently available (BPT). Except as provided in rule 901:10-3-08 of the Administrative Code, any existing point source subject to this rule must achieve the following effluent limitations representing the application of BPT:

(1) For the concentrated animal feeding operation production areas. Except as provided in paragraphs (A)(1) to (A)(2) of this rule, there must be no discharge of manure into waters of the state from the production area.

(a) Whenever precipitation causes an overflow of manure, pollutants in the overflow may be discharged into waters of the state provided:

(i) The production area is designed, constructed, operated and maintained to contain all manure including the runoff and the direct precipitation from a twenty-five year, twenty-four hour rainfall event;

(ii) The production area is operated in accordance with the requirements set forth in the manure management plan in rule 901:10-2-08 of the Administrative Code and the records required by rule 901:10-2-16 of the Administrative Code.

(b) Voluntary alternative performance standards. Any concentrated animal feeding operation subject to this rule may request the director to establish NPDES permit effluent limitations based upon site-specific alternative technologies that achieve a quantity of pollutants that would be discharged under the baseline performance standards as provided by paragraph (A)(1)(a) of this rule.

(i) Supporting information. In requesting site-specific effluent limitations to be included in the NPDES permit, the concentrated animal feeding facility owner or operator must submit a supporting technical analysis and any other relevant information and data that would support such site-specific effluent limitations within the time frame provided by the director. The supporting technical analysis must include calculation of the quantity of pollutants discharged, on a mass basis where appropriate, based on a site-specific analysis of a system designed, constructed, operated and maintained to contain all manure including the runoff from a twenty-five year, twenty-four hour rainfall event. The technical analysis of the discharge of pollutants must include:

(a) All daily inputs to the manure storage or treatment facility, including manure, direct precipitation, and runoff.

(b) All daily outputs from the manure storage or treatment facility, including losses due to evaporation, manure residuals removal, and the removal of process wastewater or process generated wastewater for use on cropland at the concentrated animal feeding operation or transport off site.

(c) A calculation determining the predicted median annual overflow volume based on a twenty-five year period of actual rainfall data applicable to the site.

(d) Site-specific pollutant data, including N, P, BOD5, and total suspended solids (TSS) for the concentrated animal feeding operation from representative sampling and analysis of all sources of input to the storage system or other pollutant data.

) Predicted annual average discharge of pollutants, expressed where appropriate as a mass discharge on a daily basis (lbs/day), and calculated considering paragraphs (A)(1)(b)(i)(a) to (A)(1)(b)(i)(d) of this rule.

(ii) The director has the discretion to request additional information to supplement the supporting technical analysis, including inspection of the concentrated animal feeding operation.

(c) The concentrated animal feeding operation shall attain the limitations and requirements of this rule as of the date of permit coverage.

(2) For concentrated animal feeding operation land application areas.

Discharges from land application areas are subject to the following requirements:

(a) Develop and implement the best management practices set forth for the manure management plan in paragraph (A)(1) of rule 901:10-2-07 of the Administrative Code;

(b) Maintain the records specified in rule 901:10-2-16 of the Administrative Code; and

(c) The concentrated animal feeding operation shall attain the limitations and requirements of this rule by December 31, 2006.

(b) Effluent limitations attainable by the application of the best conventional pollutant control technology (BCT). Except as provided in rule 901:10-3-08 of the Administrative Code, any existing point source subject to this rule must achieve the following effluent limitations representing the application of BCT:

(1) For the concentrated animal feeding operation production areas: the operation shall attain the requirements in paragraph (A)(1) of this rule.

(2) For the land application areas: The operation shall attain the same limitations and requirements set forth for the manure management plan in paragraph (A)(2) of this rule.

(C) Effluent limitations attainable by the application of the best available technology economically achievable (BAT). Except as provided in rule 901:10-3-08 of the Administrative Code, any existing point source subject to this rule must achieve the following effluent limitations representing the application of BAT:

(1) For concentrated animal feeding operation production areas: The operation shall attain the same limitations and requirements set forth in paragraph (A)(1) of this rule.

(2) For the operation land application areas: the facility shall attain the same limitations and requirements as those set forth for the manure management plan in paragraph (A)(2) of this rule.

(D) New source performance standards (NSPS). Any new point source subject to this rule must achieve the following effluent limitations representing the application of NSPS:

(1) For the concentrated animal feeding operation production areas, the facility shall comply with the requirements of paragraph (A)(1) of this rule.

(2) For the land application areas, the operation shall attain the requirements as listed for the manure management plan in paragraph (A)(1) of rule 901:10-2-07 of the Administrative Code and the records required in rule 901:10-2-16 of the Administrative Code.

) The facility shall attain the limitations and requirements of this rule as of the date of permit coverage.

(4) Any source subject to this rule that commenced discharging after April 14, 1993 and prior to April 14, 2003 which was a new source subject to the standards specified in paragraph (C) of rule 901:10-3-03 of the Administrative Code, revised as of July 1, 2002, must continue to achieve those standards for the applicable time period specified in 40 CFR 122.29(d)(1) . Thereafter, the source must achieve the standards specified in paragraphs (A)(1) and (A)(2) of this rule.

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901:10-3-05 Effluent limitations for ducks category of feedlots.

This rule applies to discharges resulting from the production areas at dry lot and wet lot duck concentrated animal feeding operations. This rule does not apply to such concentrated animal feeding operations with less than the following capacities: five thousand ducks.

(A) Definitions

(1) Dry lot means a facility for raising ducks in confinement with a dry litter floor cover and no access to swimming areas.

(2) Wet lot means a confinement facility for raising ducks which is open to the environment, has a small portion of shelter area, and having open water runs and swimming areas to which ducks have access.

(B) Effluent limitation attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in rule 901:10-3-08 of the Administrative Code, any existing point source subject to this rule shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available(BPT):

Effluent limitations

Regulated parameter	Maximum Daily ¹	Maximum Monthly Average ¹	Maximum Daily ²	Maximum Monthly Average ²
OD5	3.66	2.0	1.66	0.91
Fecal coliform	(3)	(3)	(3)	(3)

1 Pounds per 1,000 ducks

2 Kilograms per 1,000 ducks

3 Not to exceed most probable number (mpn) of 400 per 100 ml at any time.

(C) New source performance standards (NSPS).

(1) Except as provided in paragraph (C)(2) of this rule, any new source subject to this rule must achieve the following performance standards: there must be no discharge of manure into waters of the state.

(2) Whenever rainfall events cause an overflow of manure from a facility designed, constructed, operated, and maintained to contain all manure plus the runoff from a twenty-five year, twenty-four hour rainfall event at the location of the point source, any manure in the overflow may be discharged into waters of the state.

(D) Pretreatment standards for new sources

(1) Except as provided in paragraph (D)(2) of this rule, any new source subject to this rule must comply with paragraph (E) of rule 901:10-3-02 of the Administrative Code and must achieve the following performance standards: there must be no introduction of manure to a publicly owned treatment works.

(2) Whenever precipitation events cause an overflow of manure from a facility designed, constructed,

operated and maintained to contain all manure plus the runoff from a twenty-five year, twenty-four hour rainfall event at the location of the point source, any manure in the overflow may be introduced to a publicly owned treatment works but in accordance with the requirements of paragraph (E) of rule 901:10-3-02 of the Administrative Code.

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Statutory Authority: 903.08 , 903.10

Rule Amplifies: 903.01 , 903.08 , 903.09 , 903.10

Prior Effective Dates: 9/15/2005, 1/29/07

901:10-3-06 Swine, poultry, and veal calves.

This rule applies to operations defined as concentrated animal feeding operations and includes the following animals: swine; chickens; turkeys; and veal calves. This rule does not apply to such operations with less than the following capacities: two thousand five hundred swine each weighing fifty-five pounds or more; ten thousand swine each weighing less than fifty-five pounds; thirty thousand laying hens or broilers if the facility uses a liquid manure handling system; one hundred twenty-five thousand chickens other than laying hens if the facility uses other than a liquid manure handling system; eighty-two thousand laying hens if the facility uses other than a liquid manure handling system; fifty-five thousand turkeys; and one thousand veal calves.

(A) Effluent limitations attainable by the application of the best practicable control technology currently available (BPT). Except as provided in rule 901:10-3-08 of the Administrative Code, any existing point source subject to this rule must achieve the following effluent limitations representing the application of BPT:

(1) For production areas. Except as provided in paragraph (A)(1)(a) of this rule, there must be no discharge of manure into waters of the state from the production area. The limitations and requirements of this paragraph must be attained as of the date of permit coverage.

(a) Whenever precipitation causes an overflow of manure, pollutants in the overflow may be discharged into waters of the state provided:

(i) The production area is designed, constructed, operated and maintained to contain all manure including the runoff and the direct precipitation from a twenty-five year, twenty-four hour rainfall event; and

(ii) The production area is operated in accordance with the requirements set forth in the manure management plan in rule 901:10-2-08 of the Administrative Code and the records required by rule 901:10-2-16 of the Administrative Code.

(b) Voluntary alternative performance standards. Any CAFO subject to this subpart may request the director to establish NPDES permit effluent limitations based upon site-specific alternative technologies that achieve a quantity of pollutants discharged from the production area equal to or less than the quantity of pollutants that would be discharged under the baseline performance standards as provided by paragraph (A)(1) of this rule.

(i) Supporting information. In requesting site-specific effluent limitations to be included in the NPDES permit, the CAFO owner or operator must submit a supporting technical analysis and any other relevant information and data that would support such site-specific effluent limitations within the time frame provided by the director. The supporting technical analysis must include calculation of the quantity of pollutants discharged, on a mass basis where appropriate, based on a site-specific analysis of a system designed, constructed, operated, and maintained to contain all manure, litter, and process wastewater, including the runoff from a twenty-five-year, twenty-four-hour rainfall event. The technical analysis of the discharge of pollutants must include:

(a) All daily inputs to the storage system, including manure, litter, all process waste waters, direct precipitation, and runoff.

(b) All daily outputs from the storage system, including losses due to evaporation, sludge removal, and the removal of waste water for use on cropland at the CAFO or transport off site.

(c) A calculation determining the predicted median annual overflow volume based on a twenty-five-year period of actual rainfall data applicable to the site.

(d) Site-specific pollutant data, including N, P, BOD5, TSS, for the CAFO from representative sampling and analysis of all sources of input to the storage system, or other appropriate pollutant data.

(e) Predicted annual average discharge of pollutants, expressed where appropriate as a mass discharge on a daily basis (lbs/day), and calculated considering paragraphs (A)(1)(b)(i)(a) to (A)(1)(b)(i)(d) of this rule.

(ii) The director has the discretion to request additional information to supplement the supporting technical analysis, including inspection of the CAFO.

(c) The CAFO shall attain the limitations and requirements of this paragraph as of the date of permit coverage.

(2) For the land application areas.

(a) The operation shall attain the same limitations and requirements listed for the manure management plan in paragraph (A)(1) of rule 901:10-2-07 of the Administrative Code and record keeping requirements in rule 901:10-2-16 of the Administrative Code.

(b) The operation shall attain the limitations and requirements of this paragraph by December 31, 2006.

(B) Effluent limitations attainable by the application of the best conventional pollutant control technology (BCT).

) Except as provided in rule 901:10-3-08 of the Administrative Code, any existing point source subject to this rule must achieve the following effluent limitations representing the application of BCT:

(a) For operation production areas: the operation shall attain the same limitations and requirements in paragraph (A)(1) of this rule.

(b) For the land application areas: the operation shall attain the same limitations and requirements in paragraph (A)(2) of this rule.

(C) Effluent limitations attainable by the application of the best available technology economically achievable (BAT).

Except as provided in rule 901:10-3-08 of the Administrative Code, any existing point source subject to this rule must achieve the following effluent limitations representing the application of BAT:

(1) For production areas: the concentrated animal feeding operation shall attain the same limitations and requirements in paragraph (A)(1) of this rule.

(2) For land application areas: the concentrated animal feeding operation shall attain the same limitations and requirements listed in paragraph (A)(2) of this rule.

(D) New source performance standards (NSPS).

Any new source subject to this rule must achieve the following effluent limitations representing the application of NSPS.

(1) For production areas: there must be no discharge of manure into waters of the state from the

production area, subject to paragraphs (D)(1)(a) to (D)(1)(c) of this rule.

(a) A new source subject to this rule may request that the director establish NPDES permit best management practice effluent limitations designed to ensure no discharge of manure, litter, or process wastewater based upon a site-specific evaluation of the concentrated animal feeding operation's open surface manure storage or treatment facilities. The NPDES permit best management practice effluent limitations must address the CAFO's entire production area. In the case of any CAFO using an open surface manure storage or treatment facility for which the director establishes such effluent limitations, no discharge of manure as used in this section, means that the manure storage or treatment facility is designed, operated, and maintained in accordance with best management practices established by the director on a site-specific basis after a technical evaluation of the manure storage or treatment facility. The technical evaluation must address the elements established in 40 CFR 412.46(a)(1). Manure storage or treatment facilities designed, constructed, operated, and maintained consistent with the analysis conducted in 40 CFR 412.46(a)(1)(i) to (a)(1)(vii) and operated in accordance with the manure management plan and records required by rules 901:10-2-08 and 901:10-2-16 of the Administrative Code will fulfill the requirements of this rule. The director has the discretion to request additional information to support a request for effluent limitations based on a site-specific open surface manure storage structure.

(b) The production area shall be operated in accordance with the requirements set forth in the manure management plan in rule 901:10-2-08 of the Administrative Code and the records required by rule 901:10-2-16 of the Administrative Code.

(c) Provisions for upset/bypass, as provided in paragraphs (T) and (U) of rule 901:10-3-10 of the Administrative Code, apply to a new source subject to paragraph (D) of this rule.

(d) For land application areas: the operation shall comply with the requirements listed for the manure management plan required by paragraph (A)(1) of rule 901:10-2-07 of the Administrative Code and the recordkeeping requirements of rule 901:10-2-16 of the Administrative Code.

(3) The operation shall attain the limitations and requirements of paragraph (D) of this rule as of the date of permit coverage.

(4) Any source subject to this rule that commenced discharging after April 14, 1993 and prior to April 14, 2003 which was a new source subject to the standards specified in 40 CFR 412.15, revised as of July 1, 2002, must continue to achieve those standards for the applicable time period specified in 40 CFR 122.29(d)(1). Thereafter, the source must achieve the standards specified in paragraphs (A)(1) and (A)(2) of this rule.

(5) Any source subject to this rule that commenced discharging after April 14, 2003 and prior to January 20, 2009 which was a new source subject to the standards specified in 40 CFR 412.46(a) to (d) in the July 1, 2008 edition of 40 CFR part 439, must continue to achieve those standards for the applicable time period specified in 40 CFR 122.29(d)(1).

R.C. 119.032 review dates: 11/29/2011 and 11/29/2016

Promulgated Under: 119.03

Statutory Authority: 903.08, 903.10

Rule Amplifies: 903.01, 903.08, 903.09, 903.10

Effective Dates: 9/15/2005, 1/29/2007

901:10-3-07 Designated operations and determinations by the director.

) The director may designate any animal feeding facility as a concentrated animal feeding operation in accordance with division (F)(1) of section 903.10 of the Revised Code upon determining that it is a significant contributor of manure to waters of the state. In making a designation, the director shall consider the following factors:

- (1) The size of the animal feeding facility and the amount of manure reaching waters of the state;
- (2) The location of the animal feeding facility relative to waters of the state;
- (3) The means of conveyance of manure into waters of the state;
- (4) The slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of manure into waters of the state; and
- (5) Other relevant factors.

(B) No animal feeding facility shall be designated under this rule unless the director has conducted an on-site inspection of the animal feeding facility and determined that the facility should and could be regulated under the permit program. In addition, no animal feeding facility with numbers of animals below those established in division (Q) of section 903.01 of the Revised Code may be designated as a concentrated animal feeding operation or concentrated animal feeding facility unless:

) Manure is discharged into waters of the state through a constructed ditch, flushing system, or other similar constructed device; or

(2) Manure is discharged directly into waters of the state which originate outside of the facility and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the facility.

(C) The director may determine that an animal feeding facility that is not a medium concentrated animal feeding operation or a small concentrated animal feeding operation is a concentrated animal feeding facility in accordance with section 903.082 of the Revised Code.

(D) If the director determines that an animal feeding facility shall be required to be permitted as a medium or small concentrated animal feeding operation, then the owner or operator shall apply to the director for an NPDES permit as a concentrated animal feeding operation. If the director determines that the existing facility cannot comply with best management practices in Chapter 901:10-2 or Chapter 1505:15-5 of the Administrative Code, without modifying the existing facility, the owner or operator shall apply for a permit to install.

R.C. 119.032 review dates: 03/21/2014 and 03/21/2019

Promulgated Under: 119.03

Statutory Authority: 903.08 , 903.10

Rule Amplifies: 903.01 , 903.08 , 903.082 , 903.09 , 903.10

Effective Dates: 1/23/2009, 1/29/2007, 9/15/2005, 7/2/2002

901:10-3-08 Variances.

(A) A variance may be requested in accordance with section 301 or section 302 of the Federal Water Pollution Control Act. A request for a variance will be decided upon by the director, but the director's decision shall not be incorporated into any term or condition of a NPDES permit until the United States environmental protection agency regional administrator grants or denies the request for a variance or, in the case of variances under paragraph (B)(4) or (B)(5) of this rule, the administrator grants or denies the request for a variance.

(B) The regional administrator may deny, forward or submit to the United States environmental protection agency office director for water enforcement and permits a recommendation for approval for a request for a variance listed in paragraph (B) of this rule that has been forwarded by the director:

(1) Extensions based on delay in completion of a publicly owned treatment works provided that the extension meets the requirements of section 301(i) of the act;

(2) Extensions based on the use of innovative technology where effluent reduction will be significantly reduced with significantly reduced cost. The variances may provide an extended two-year period to comply provided that the extension meets the requirements of section 301(k) of the act;

(3) A variance based on the economic capability of the applicant provided that the variance shall meet the requirements of section 301(c) of the act. The owner or operator must show progress in reductions with the maximum use of technology while utilizing economic capability;

(4) A variance based on the presence of "fundamentally different factors" or "FDF" that meets the requirements of section 301(n) of the act. A FDF variance is not timely unless filed when effluent limits are to be modified in a rulemaking procedure. A FDF variance shall be "no less stringent a limit than justified by fundamental differences" while also demonstrating that the existing limit will cause adverse affect; or

(5) A variance that meets the requirements of section 301(g) of the act for nonconventional pollutants that include ammonia, chlorine, color, iron, and total phenols.

(6) A variance based on water quality related effluent limitations under section 302(b) of the act applies only to the owner or operator requesting the variance and only to the pollutant or pollutants specified in the variance. A variance does not affect or require corresponding changes to the water quality standard for the waterbody as a whole.

(a) Eligibility. The owner or operator is not eligible for a variance under this paragraph if the following apply:

(i) The owner or operator is a new discharger or the owner or operator of a facility that commenced a discharge after March 23, 1997.

(ii) If the variance would likely jeopardize the continued existence of an endangered or threatened species listed under section four of the Endangered Species Act or result in the destruction or adverse modification of such species' critical habitat.

(b) If standards will be attained by implementing effluent limits required under sections 301 (b) and 306 of the act and by the owner or operator implementing cost-effective and reasonable best management practices for nonpoint source control.

(b) Timeframe for variances. A water quality based variance issued under paragraph (B)(6) of this rule shall not exceed five years or the term of the NPDES permit whichever is less. A water quality based variance shall be reviewed and modified if necessary as part of each water quality standards review pursuant to section 303(c) of the act.

(c) Conditions to grant a variance. A variance may be granted if:

(i) The owner or operator demonstrates to the director that attaining the water quality standard is not feasible because:

(a) Naturally occurring pollutant concentrations prevent the attainment of the water quality standard;

(b) Natural, ephemeral, intermittent or low flow conditions or water levels prevent the attainment of the water quality standard, unless these conditions may be compensated for by the discharge of a sufficient volume of effluent to enable the water quality standard to be met without violating water conservation requirements;

(c) Human-caused conditions or sources of pollution prevent the attainment of the water quality standard and cannot be remedied, or would cause more environmental damage to correct than to leave in place;

(d) Dams, diversions or other types of hydrologic modifications preclude the attainment of the water quality standard, and it is not feasible to restore the waterbody to its original condition or to operate such modification in a way that would result in the attainment of the water quality standard;

(e) Physical condition related to the natural features of the waterbody, such as the lack of a proper substrate cover, flow, depth, pools, riffles, and the like, unrelated to chemical water quality, preclude attainment of the water quality standard; or

(f) Controls more stringent than those required by sections 301(b) and 306 of the act would result in substantial and widespread economic and social impact.

(ii) In addition to the requirements of paragraph (B)(6)(c)(i) of this rule the owner or operator shall also:

(a) Show that the variance requested conforms to the requirements of the antidegradation policy as set forth in section 6111.12 of the Revised Code; and

(b) Characterize the extent of any increased risk to human health and the environment associated with granting the variance compared with compliance with the water quality standard absent the variance, such that the director is able to conclude that any such increased risk is consistent with the protection of the public health, safety and welfare.

(d) Submittal of the variance application. The owner or operator shall submit an application for a variance to the director. The application shall include:

(i) All relevant information demonstrating that attaining the water quality standard is not feasible based on one or more of the conditions in paragraphs (B)(6)(c)(i) and (B)(6)(c)(ii) of this rule.

(e) Public notice of preliminary decision. Upon receipt of a complete application for a variance and upon making a preliminary decision regarding the variance the director shall provide public notice of the request and preliminary decision for a public comment pursuant to the procedures set forth in Chapter 901:10-6 of the Administrative Code. The director shall notify the other Great Lakes States and Tribes of the preliminary decision for discharges in the Lake Erie basin. This public notice requirement may be satisfied

by including the supporting information for the variance and the preliminary decision in the public notice of the draft NPDES permit.

(7) The director shall issue a final decision on the variance request within ninety days of the expiration of a public comment period required in paragraph (B)(6)(e) of this rule. If the director decides to grant or deny a variance then the director shall do so in accordance with Chapter 119. of the Revised Code. If all or part of the variance is approved by the director, the decision shall include all permit conditions needed to implement those parts of the variance so approved. Such permit conditions shall, at a minimum, require:

(a) Compliance with an initial effluent limitation which, at the time the variance is granted, represents the level currently achievable by the owner or operator and which is no less stringent than that achieved under the previous permit;

(b) That reasonable progress be made toward attaining the water quality standards for the waterbody as a whole through appropriate conditions;

(c) When the duration of a variance is shorter than the duration of a permit, compliance with an effluent limitation sufficient to meet the underlying water quality standard, upon the expiration of said variance; and

(d) A provision that allows the director to reopen and modify the permits based on any triennial water quality standards revisions to the variance.

The director shall deny a variance request if the permittee fails to make the demonstrations required under paragraph (B)(6)(c) of this rule.

) Incorporating into the permit. The director shall establish and incorporate into the NPDES permit all conditions needed to implement the variance as determined in paragraph (B)(7) of this rule.

(9) Renewal of the variance. A variance may be renewed subject to the requirements of paragraph (B)(8) of this rule. As part of any renewal application, the owner or operator shall again demonstrate that attaining a water quality standard is not feasible based on the requirements of paragraph (B)(6)(c) of this rule. The application shall also contain information concerning compliance with the conditions incorporated into its permit as part of the original variance pursuant to paragraphs (B)(7) and (B)(8) of this rule. Renewal of a variance may be denied if the owner or operator did not comply with the conditions of the original variance.

(10) All variances and supporting information shall be submitted by the director to the regional administrator and shall include:

(a) Relevant applications as set forth in paragraph (B)(6)(d) of this rule;

(b) Public comments and records of any public hearings pursuant to paragraph (B)(6)(e) of this rule;

(c) The final decision of the director; and

(d) The NPDES permit.

) Information required by this paragraph shall be submitted by the director within thirty days of the date of the final variance decision. The information required by paragraph (B)(6)(d) of this rule shall be submitted in accordance with the terms of the memorandum of agreement with the regional administrator pursuant to 40 CFR 123.24 .

(11) All variances shall be transmitted to the Ohio environmental protection agency and appended to the water quality standard rules adopted in accordance with section 6111.041 of the Revised Code.

(C) The United States environmental protection agency regional administrator or the United States environmental protection agency office of the director for water enforcement and permits may approve or deny any variance request submitted under paragraph (B) of this rule. If the regional administrator or office director approves the variance, the director may prepare a draft permit incorporating the variance. Any public notice of a draft permit for which a variance has been approved or denied shall identify the applicable procedures for appealing that decision. An owner or operator shall be afforded an appeal of the decision in accordance with 40 C.F.R. section 124.64 and Chapter 119. of the Revised Code.

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Prior Effective Dates: 9/1/2011, 1/23/2009, 1/29/2007, 9/15/2005, 7/2/2002

901:10-3-09 Appeals of variances.

When the director issues a permit on which the United States environmental protection agency has made variance decision, separate appeals of the state permit and of the United States environmental protection agency variance decision are possible. If the owner or operator is challenging the same issues in both proceedings, the regional administrator will decide, in consultation with state officials, which case will be heard first.

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Rule Amplifies: 903.10

Prior Effective Dates: 7/2/2002

901:10-3-10 Standard permit terms and conditions.

(A) The following terms and conditions are applicable to NPDES permits. The owner or operator shall comply with all terms and conditions of the NPDES permit.

(B) Duty to mitigate. The owner or operator shall take all reasonable steps to minimize or prevent any discharge or disposal in violation of the permit which has a reasonable likelihood of adversely affecting human health or the environment. This permit may be modified, suspended or revoked for cause.

(C) Permit actions. The NPDES permit may be modified, revoked and reissued, or terminated for cause. The filing by the owner or operator of a request for permit modification, suspension, revocation or a notification of planned changes or anticipated noncompliance does not stay or suspend any permit term or condition.

(D) Duty to comply. Any permit noncompliance constitutes a violation of the act and Chapter 903. of the Revised Code and is grounds for an enforcement action; for permit revocation; suspension; modification; or denial of a permit renewal application.

(E) General effluent limitations. Any effluent shall, at all times, comply with Ohio water quality standards.

(F) Duty to reapply. If the permittee wishes to commence a discharge or to continue any activity regulated by the permit after the expiration date of this permit, an application for a permit or renewal of a permit shall be submitted to the director at least one hundred eighty days prior to discharge or the expiration date of the permit.

) The permit does not convey any property rights of any sort or any exclusive privilege.

(H) Inspection and entry. The owner or operator shall allow the director or an authorized representative upon the presentation of proper identification, at reasonable times and in compliance with biosecurity procedures:

(1) To enter the facility or operation where any records are kept under the terms and conditions of the permit;

(2) To have access for review and copying any records that must be kept under the terms and conditions of the permit;

(3) To inspect, at reasonable times:

(a) Equipment (including any monitoring and control equipment) or methods;

(b) Any manure storage or treatment facility;

(c) Practices required or regulated under the permit; and

(4) To sample or monitor, at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the act, any substances or parameters at any location.

) Duty to provide information. The owner or operator shall furnish to the department within a reasonable time any information that the department may request to determine whether cause exists for modifying, revoking, and reissuing or terminating the permit or to determine compliance with the permit. The owner or operator shall also furnish to the department, upon request, copies of records required by this permit to

be kept.

(J) Monitoring and records.

) Samples and measurements taken including, but not limited to, samples and measurements of manure, soils, process wastewater and process generated water for the purpose of monitoring shall be representative of the monitored activity.

(2) The owner or operator shall retain records of all monitoring information, including all calibration and maintenance records and, if applicable, original strip chart recordings or continuous monitoring instrumentation. Copies of reports required by this permit and records of data used to complete the application for this permit shall be retained for a period of at least five years from the date of this permit, the sample, measurement, report or application. This period may be extended by request of the department at any time.

(3) Records of monitoring information shall include:

- (a) The date, exact place and time of sampling or measurements;
- (b) The individual(s) who performed the sampling or measurements;
- (c) The date(s) analyses were performed;
- (d) The analytical techniques or methods used; and
- (e) The results of such analyses.

) Monitoring must be conducted according to rules 901:10-2-10 and 901:10-2-13 of the Administrative Code and according to test procedures approved under 40 C.F.R. part 136, unless other test procedures have been specified in the permit and approved by the regional administrator. Monitoring must be conducted in accordance with any water quality analytical procedures approved by the department. The owner or operator shall maintain equipment or lease the equipment or otherwise obtain access to equipment to ensure accurate measurements.

(L) Additional requirements for recording and reporting monitoring results shall be established on a case-by-case basis with a frequency dependent on the nature and effect of the discharge, but in no case less than once per year. All permits shall specify:

- (1) Requirements concerning the proper use, maintenance and installation, when appropriate, of monitoring equipment or methods (including biological monitoring methods when appropriate);
- (2) Required monitoring including type, intervals and frequency sufficient to yield data which are representative of the monitoring activity including, when appropriate, continuous monitoring; and
- (3) Applicable reporting requirements based upon the impact of the regulated activity.

(M) Signatures. All permit applications and reports required by the permit and other information submitted to the director shall be signed and certified as follows:

) All permit applications shall be signed as follows:

- (a) For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:

(i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

, The manager of one or more production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures; or

(b) For a partnership or sole proprietorship: by a general partner for a partnership or the proprietor, respectively.

(2) All reports required by permits and other information requested by the director shall be signed by the person described above or a duly authorized representative of that person. A person is a duly authorized representative of the person described above only if:

(a) The authorization is made in writing by the person described above;

(b) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility such as the position of manager, or a position of equivalent responsibility; (A duly authorized representative may thus be either a named individual or any individual occupying a named position.) and,

(c) The written authorization is submitted to the director.

(d) Changes to authorization. If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying this rule must be submitted prior to or together with any reports, information, or applications to be signed by an authorized representative..

(3) Certification. Any person signing a document under this rule shall make the following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

(N) Need to halt or reduce activity is not a defense. It shall not be a defense for an owner or operator in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

(O) Proper operation and maintenance. The owner or operator shall at all times properly operate and maintain all facilities (and related appurtenances) which are installed or used by the owner or operator to achieve compliance with the conditions of the permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems only when necessary to achieve compliance

with the conditions of the permit.

(P) Emergency notification. In an emergency, the owner or operator shall follow the facility's emergency response plan, which shall include, at a minimum, the following:

(1) The names and telephone numbers of persons who are identified by the owner or operator as responsible for implementing the plan;

(2) Areas of the facility where potential spills can occur and their accompanying surface and subsurface drainage points; and

(3) Procedures to be followed in the event of a spill, including actual or imminent discharge to waters of the state. These procedures shall include:

(a) The owner or operator shall report a spill or discharge by telephone to the department as soon as possible, but in no case more than twenty-four hours following first knowledge of the occurrence and shall provide the following information:

(i) The time at which the discharge or spillage occurred, if known, was discovered;

(ii) The approximate amount and the characteristics of the discharge or spillage;

(iii) The waters of the state affected by the discharge or spillage;

(iv) The circumstances which created the discharge or spillage;

(v) The names and telephone numbers of persons who have knowledge of these circumstances;

(vi) Those steps being taken to clean up the discharge or spillage;

(vii) The names and telephone numbers of the persons responsible for the cleanup.

(b) For any emergency that requires immediate reporting after normal business hours, the owner or operator shall use the Ohio department of agriculture's emergency telephone number.

(c) If applicable, the owner or operator shall notify appropriate local authorities.

(d) The owner or operator shall also file a written report of the occurrence in letter form within five days following first knowledge of the occurrence, unless waived, in writing, by the department. On a case-by-case basis, the director may waive the written report if an oral report of a spill was received within twenty-four hours of the incident. This report shall outline the actions taken, proposed to be taken to correct the problem and to ensure that the problem does not recur.

(Q) Twenty-four hour reporting. The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within twenty-four hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances. A written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the noncompliance. On a case-by-case basis the director may waive the written report if an oral report of a spill was received within twenty-four hours of the incident.

The following shall be included as information which must be reported within twenty-four hours:

(1) Any unanticipated bypass that exceeds any effluent limitation in the permit;

) Any upset which exceeds any effluent limitation in the permit; and

(3) Violations of a maximum daily discharge limitation for any of the pollutants listed by the director in the permit to be reported within twenty-four hours. The director may waive the written report on a case-by-case basis for reports if the oral report has been received within twenty-four hours.

(R) Compliance schedules.

(1) The director shall establish conditions, as required and appropriate on a case-by-case basis, to provide for and assure compliance with all applicable requirements of the act and regulations. These shall include conditions under 40 CFR sections 122.44 , 122.46 , 122.47 , 122.48 and 40 CFR Part 132. In particular, when appropriate, the director may include in a permit a schedule of compliance leading to compliance with the CWA and its implementing regulations consistent with the requirements and conditions in 40 C.F.R. 122.47 which establish compliance schedules and authority to set interim compliance dates.

(2) Reports of compliance or noncompliance with, or any progress reports on, any compliance schedule of the permit shall be submitted fourteen days after each schedule date.

(S) Anticipated noncompliance. The owner or operator shall give advance notice to the director of any planned changes at the facility that may result in noncompliance with permit requirements.

) Bypass means the intentional diversion of manure from any portion of the treatment facility.

(1) Bypass not exceeding limitations. The permittee may allow any bypass to occur that does not cause effluent limitations to be exceeded but only if it also is for essential maintenance to assure efficient operation.

(2) If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible, at least ten days before the date of the bypass.

(3) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph (Q) of this rule.

(4) Bypasses are prohibited and the director may take enforcement action unless:

(a) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage. Severe property damage means substantial physical damage to property, damage to the treatment facilities that causes them to be inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of manure, or maintenance during normal periods of equipment downtime. This condition will not be satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass; and

(c) The owner or operator submitted notices as required by paragraph (P) of this rule; and

(d) The director may approve an anticipated bypass after considering its adverse effects if the director determines that the bypass will meet the conditions listed in this rule.

(U) Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance or careless or improper operation.

(1) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based effluent limitations if the requirement of paragraph (U)(2) of this rule is met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is a final administrative action subject to judicial review.

(2) Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate through properly signed, contemporaneous operating records, or other relevant evidence that:

(a) An upset occurred and the permittee can identify the cause of the upset;

(b) The permitted operation was at the time being properly operated;

(c) The permittee submitted notice of the upset as required in paragraph (Q) of this rule; and

(d) The permittee complied with any compliance measures required under paragraph (B) of this rule.

(3) In any proceeding to enforce the NPDES permit the owner or operator seeking to establish the occurrence of an upset has the burden of proof.

(V) Planned changes. The owner or operator shall give notice to the department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

(1) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 C.F.R. section 122.29(b) ; or

(2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are not subject to effluent limitations in the permit.

(W) Other noncompliance. The owner or operator shall report all instances of noncompliance not reported under paragraphs (Q) and (R) of this rule at the time monitoring reports are submitted. These reports shall contain the information listed in paragraph (Q) of this rule.

(X) Other information. Where the owner or operator becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the director, it shall promptly submit such facts or information.

(Y) Reporting obligations.

(1) Annual reports and information required to be submitted by the permit or by the rules may be submitted in hard copy format in the a report form pre-printed by the Ohio department of agriculture or an approved facsimile. The original report form must be signed and mailed to: "Ohio Department of Agriculture, Livestock Environmental Permitting Program, 8995 East Main Street, Reynoldsburg, Ohio 43068."

(2) Alternatively, annual reports and information may be submitted electronically using the Ohio department of agriculture developed software, based on a memorandum in agreement signed by a responsible corporate officer, general partner, proprietor or a duly authorized representative of the owner or operator (see paragraph (M) of rule 901:10-3-10 of the Administrative Code) and submitted to the Ohio department of agriculture to receive an authorized personal identification number (pin) prior to sending data electronically. A hard copy of the Ohio department of agriculture form must be generated, signed and maintained on site for records retention purposes.

(3) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the director in the permit.

(Z) Other obligations which may apply.

(1) Outfalls and discharge points. All permit effluent limitations, standards and prohibitions shall be established for each outfall or discharge point of the permitted operation unless the director determines that effluent limitations are infeasible and the best management practices shall be utilized.

(2) Continuous discharges. For any continuous discharges, all permit effluent limitations, standards, and prohibitions, including those necessary to achieve water quality standards, shall unless impracticable be stated as:

(a) Maximum daily and average monthly discharge limitations for all dischargers other than publicly owned treatment works; and

(b) Average weekly and average monthly discharge limitations for any utilized publicly owned treatment works.

(3) Non-continuous discharges. Discharges which are not continuous shall be particularly described and limited, considering the following factors, as appropriate:

(a) Frequency (for example, a batch discharge shall not occur more than once every three weeks);

(b) Total mass (for example, not to exceed one hundred kilograms of zinc and two hundred kilograms of chromium per batch discharge);

(c) Maximum rate discharge of pollutants during the discharge (for example, not to exceed two kilograms of zinc per minute); and

(d) Prohibition or limitation of specified pollutants by mass, concentration, or other appropriate measure (for example, shall not contain at any time more than 0.1 mg/l zinc or more than two hundred and fifty grams (1/4 kilogram) of zinc in any discharge).

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901:10-3-11 Stormwater permits general and individual.

(A) Definitions.

[Comment: the following definitions shall apply specifically to stormwater. All other definitions contained in this rule and not otherwise defined below shall retain the meaning in the rules contained in definitions rule 901:10-1-01 of the Administrative Code and in Chapter 903. of the Revised Code.]

(1) Best management practices for stormwater means erosion control, sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing and minimizing degradation of surface water, including construction-phasing, minimizing the length of time soil areas are exposed, prohibitions and other management practices published by the state or other agencies, such as "Rainwater and Land Development, Ohio's Standards for Storm Water Management, Land Development and Urban Stream Protection, Third Edition, 2006," prepared by the Ohio department of natural resources, division of soil and water conservation.

(2) Construction activity means clearing, grading, excavation, grubbing and filling.

(3) Erosion means the wearing away of soil by rainfall, surface water runoff, wind or ice movement.

(4) Erosion control means methods employed to prevent erosion. Examples include soil stabilization practices, horizontal slope grading, temporary or permanent cover and construction phasing.

(5) Exposed soil area means all areas of the construction site where the perennial vegetation (including trees, shrubs and brush) has been removed. This includes topsoil stockpile areas, borrow areas and disposal areas within the construction site.

(6) Final stabilization means that all soil disturbing activities at the site have been completed and that a uniform perennial vegetative cover with a density of seventy percent of the cover for unpaved areas and areas not covered by permanent structures has been established or equivalent permanent stabilization measures have been employed.

(7) First order stream means all streams identified on a United States geological survey seven and five tenths minute topographical map by either a dashed or blue solid line.

(8) Impervious surface means a constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt or gravel roads.

(9) "National Pollutant Discharge Elimination System" (NPDES) means the program for issuing, modifying, revoking, reissuing, terminating, monitoring and enforcing permits under the Clean Water Act (Sections 301, 318, 402 and 405) and United States Code Title 33, sect. 1317, 1328, 1342, and 1345.

(10) Permanent cover means final stabilization including, but not limited to, grass, gravel, asphalt and concrete.

(11) Sediment means solid material, both mineral and organic, that is in suspension, is being transported or has been moved from its site of origin by air, water, gravity or ice and has come to rest on the earth's surface.

(12) Sediment control means methods employed to prevent sediment from leaving the site. Sediment

control practices include filter strips, silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, pipe slope drains, storm drain inlet protection, and temporary or permanent sedimentation basins.

13) Soil means the unconsolidated, erodible earth material consisting of minerals or organics.

(14) Stabilized means the exposed ground surface has been covered by staked sod, rip rap, wood fiber blanket, or other material, which prevents erosion from occurring. Grass seed by itself is not stabilization.

(15) Stormwater means the precipitation runoff, stormwater runoff, snowmelt runoff and any other surface runoff and drainage defined in 40 CFR section 122.26(b)(13) . Stormwater does not include construction site dewatering or agricultural stormwater discharges.

Stormwater resulting from an animal feeding facility includes immediate access roads and rail lines used or traveled by carriers of raw materials, products, waste materials, or by-products used or created by the facility, sites used for handling material other than manure, refuse sites, sites used for storage and maintenance of material handling equipment, shipping and receiving areas, and under the control of the owner or operator. All areas that fall within the meaning of production area are excluded from this definition.

(16) Temporary protection means temporary methods employed to prevent erosion. Examples of temporary protection include: straw, wood fiber blanket, wood chips and erosion netting.

(17) Waters of the state means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems and other bodies or accumulations of water, surface and underground, natural or artificial which are situated wholly within, partly within or border upon this state or within its jurisdiction, except those private waters which do not combine or effect a junction with natural surface or underground waters.

(18) Wet weather discharge refers collectively to point source discharges that result from precipitation events, such as rainfall and snowmelt. Wet weather discharges include stormwater runoff, combined sewer overflows and wet weather sanitary sewer overflows. Stormwater runoff accumulates pollutants such as oil and grease, chemicals, nutrients, metals and bacteria as it travels across land.

(B) Permit requirements.

(1) General stormwater requirements. No person shall discharge stormwater resulting from an animal feeding facility without first obtaining a NPDES permit issued by the director of agriculture in accordance with rules when such a permit is required by the act. The director may designate a stormwater discharge as a point source subject to a NPDES permit. In addition, any person may petition the director to require a NPDES permit for a discharge which is composed entirely of stormwater which contributes to a violation of water quality standards or is a significant contributor of pollutants to waters of the United States. Persons that have been issued a NPDES permit by the director of the Ohio environmental protection agency for the discharge of storm water from an animal feeding facility prior to the date on which the USEPA approved the NPDES program submitted by the director of agriculture under this section may continue to operate under that permit until it expires or is modified or revoked. Such a permit shall be enforced by the director of agriculture upon the transfer of authority to enforce the terms and conditions of the permit.

(2) Construction stormwater requirements. No person shall discharge stormwater resulting from an animal feeding facility that is undergoing construction activities that include clearing, grading, excavating, grubbing and/or filling activities that result in the disturbance of one or more acres unless the person first

obtains a NPDES permit issued by the director of agriculture in accordance with rules when such a permit is required by the Act. Persons that have been issued a NPDES permit by the director of the Ohio environmental protection agency for the discharge of stormwater from an animal feeding facility prior to the date on which the USEPA approved the NPDES program submitted by the director of agriculture under this section may continue to operate under that permit until it expires or is modified or revoked. Such a permit shall be enforced by the director of agriculture upon the transfer of authority to enforce the terms and conditions of the permit.

(C) Individual permit or general permit.

(1) The director may require an owner or operator to apply for and obtain either an individual NPDES permit or coverage under a NPDES general permit. Any interested person may petition the director to take action under circumstances listed below. An individual NPDES permit may be required under the following circumstances:

- (a) A discharge exists and is a significant contributor of pollutants;
- (b) Noncompliance with the conditions of a NPDES general permit;
- (c) Noncompliance with the rules; or
- (d) Receiving streams not meeting applicable water quality standards;
- (e) A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;
- (f) Effluent limitation guidelines are promulgated for point sources covered by a general NPDES permit;
- (g) A water quality management plan containing requirements applicable to such point sources is approved; or
- (h) Circumstances have changed since the time of the request to be covered so that the discharger is no longer appropriately controlled under the general permit, or either a temporary or permanent reduction or elimination of the authorized discharge is necessary.

(2) The director may require the owner or operator authorized to discharge by a general permit to apply for an individual NPDES permit only if the owner or operator has been notified in writing that a permit application is required. This notice shall include a brief statement of the reasons for this decision, an application and a statement setting a deadline for the owner or operator to file the application and a statement that on the effective date of the individual permit, coverage under this general permit shall automatically terminate. The director may grant additional time to submit the application upon request of the applicant. If an owner, operator or developer fails to submit in a timely manner an individual NPDES permit application required by the director under this paragraph, then the applicability of this general permit to the individual NPDES permittee is automatically terminated at the end of the day specified for application submittal.

(3) Any owner or operator authorized by general permit may request to be excluded from the coverage of a general permit by applying for an individual permit. The owner or operator shall submit an individual application with reasons supporting the request to the director in accordance with the requirements of 40 CFR section 122.26 . The request shall be granted by issuance of an individual permit if the reasons cited by the owner or operator are adequate to support the request.

(4) When an individual NPDES permit is issued to an owner or operator otherwise subject to a general permit, or the owner, operator or developer is approved for coverage under an NPDES general permit, the applicability of a general permit to the individual NPDES permittee is automatically terminated on the effective date of the individual permit or the date of approval for coverage under the general permit, whichever the case may be.

(D) Requirements for stormwater discharge associated with construction activity.

(1) Application. Individuals who intend to obtain coverage for a stormwater discharge associated with construction activity shall submit an application for a permit at least thirty days prior to the commencement of new construction activity. Application requirements for stormwater discharges associated with construction activity include a summary of the following:

(a) The location (including a scaled map) and the nature of the construction activity;

(b) The total area of the site and the area of the site that is expected to undergo excavation, grubbing and filling during the life of the permit;

(i) The owner or operator's name, address, telephone number, and manager's name (if applicable);

(ii) The proposed start and end date of the project;

(iii) An estimate of the area to be disturbed;

(iv) Proposed measures, including best management practices to control pollutants in stormwater discharges during construction;

(v) Proposed measures to control pollutants in storm water discharges that will occur after construction operations have been completed;

[Comment: These measures should be compatible with paragraph (F) of rule 901:10-2-04 of the Administrative Code.]

(vi) An estimate of the runoff of the site and the increase in the impervious area after the construction addressed in the permit application is completed, the nature of fill material and existing data describing the soil or the quality of the discharge; and

(vii) The name of the receiving water.

(2) Fees. A one-time fee must be submitted with the application in accordance with rule 901:10-1-04 of the Administrative Code. The owner or operator will indicate on the application whether the stormwater permit is to be a general or individual permit.

(3) Transfer. A stormwater permit is transferable if the owner or operator notifies the department of agriculture in writing sixty days prior to any proposed transfer. The transferee must inform the department of agriculture in writing that he or she will assume the responsibilities of the original transferor. The director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the act.

(4) Record keeping.

(a) For construction stormwater requirements, the facility's final plans and specifications, which incorporate the requirements of the erosion and sediment control plan must be:

(i) Available at the construction site in either the field office, the inspector's vehicle, or contractor's vehicle; and

(ii) Available to federal, state and local officials for inspection for the duration of this permit.

(b) The following plans and records must be made available to federal, state, and local officials within twenty-four hours of request for the duration of this permit:

(i) The erosion and sediment control plan.

(ii) Records of all inspections. Records shall include:

(a) The dates and times of inspections;

(b) Findings of inspections;

(c) Corrective actions taken (including dates and times); and

(d) Documentation of changes to the erosion and sediment control plan made during construction.

(iii) Dates of all precipitation events exceeding one-half inch.

(iv) The owner or operator shall retain records for a period of five years after the completion of the construction activity.

(c) The notice of the general stormwater permit coverage card or individual stormwater permit shall be posted at any of the following locations:

(i) Construction site entrance and visible from the nearest public roadway;

(ii) Visible from nearest public roadway, if no construction site entrance exists;

(iii) Field office (if applicable); or

(iv) For linear utility and noncontiguous projects, at the office responsible for project administration.

(5) Sediment control

(a) Stabilization and nonstructural practices. A description of control practices designed to preserve existing vegetation where attainable and revegetation of disturbed areas as soon as practicable after grading or construction shall be provided. Such practices may include: temporary seeding, permanent seeding, mulching, matting, sod stabilization, vegetative buffer strips, phasing and protection of trees. The owner or operator shall initiate appropriate vegetative practices on all disturbed areas within seven days if they are to remain dormant for more than forty-five days. For areas within fifty feet of any stream, first order or larger, soil stabilization practices shall be initiated within two days on all inactive, disturbed areas. Permanent or temporary soil stabilization shall be applied to disturbed areas within seven days after final grade is reached on any portion of the site. When seasonal conditions prohibit the application of temporary or permanent seeding, non-vegetative soil stabilization practices such as mulching and matting shall be used.

(b) Structural practices. A description of structural practices that shall store runoff allowing sediments to settle and/or divert flows from exposed soils or otherwise limit runoff from eroding exposed areas of the site shall be provided. Structural practices shall be used to control erosion and trap sediment from all sites remaining disturbed for more than fourteen days. Such practices may include, but are not limited to,

sediment traps, sediment basins, silt fences, earth diversion dikes, check dams and storm drain inlet protection.

Timing. Sediment control structures shall be functional throughout earth disturbing activity. Sediment mounds and perimeter sediment barriers shall be implemented as the first step of grading and within seven days from the start of grubbing. They shall continue to function until the upslope development area is restabilized.

(c) Settling ponds. Concentrated stormwater runoff from disturbed areas flowing at rates which exceed the design capacity of sediment barriers shall pass through a sediment settling pond. The facility's storage capacity shall be a minimum of sixty-seven cubic yards per acre of drainage area.

(d) Sediment barriers. Sheet flow runoff from denuded areas shall be intercepted by sediment barriers. Sediment barriers, such as silt fences or diversions directing runoff to settling facilities, shall protect adjacent properties and water resources from sediment transported by sheet flow.

(e) Stream protection. Structural practices shall be designed and implemented on site to protect all adjacent streams, first order and larger, from the impacts of sediment runoff.

Other erosion and sediment control practices shall prevent sediment laden water from entering storm drain systems, unless the storm drain system drains to a settling pond. These practices shall divert runoff from disturbed areas and steep slopes where practicable and stabilize channels and outfalls from erosive flows.

(6) Post construction stormwater pollution prevention. A description of measures that will be installed during the construction process to control pollutants in stormwater discharges that will occur after construction operations have been completed shall be provided. Such practices may include among others: infiltration of runoff, flow reduction by use of open vegetated swales and natural depressions and stormwater retention and detention ponds.

[Comment: These measures should be compatible with paragraph (F) of rule 901:10-2-04 of the Administrative Code.]

(a) Where such controls are needed to prevent or minimize erosion, velocity dissipation devices shall be placed at the outfall of all detention or retention structures and along the length of any outfall channel as necessary to provide a non-erosive flow velocity from the structure to a watercourse. Justification shall be provided by the owner or operator for rejecting each practice based on site conditions.

(7) Surface water protection. If the project site contains any streams, rivers, lakes, wetlands or other surface waters, certain construction activities at the site may be regulated under the act. Sections 404 and 401 of the act regulate the discharge of dredged or fill material into surface waters and the impacts of such activities on water quality, respectively. Construction activities in surface waters which may be subject to regulation include, but are not limited to: sewer line crossings, grading, backfilling or culverting streams, filling wetlands, road and utility line construction, bridge installation and installation of flow control structures.

(8) Other controls.

(a) Waste disposal. No solid (other than sediment) or liquid waste, including building materials, shall be discharged in stormwater runoff.

(b) Off-site vehicle tracking of sediments shall be minimized.

(c) The plan shall ensure and demonstrate compliance with applicable state or local waste disposal, sanitary sewer or septic system regulations.

(9) Maintenance

(a) All temporary and permanent control practices shall be maintained and repaired as needed to assure continued performance of their intended function.

(b) The pollution prevention plan shall be designed to minimize maintenance requirements. The owner or operator shall provide a description of maintenance procedures needed to assure the continued performance of control practices.

(10) Inspections

(a) Procedures in a plan shall provide that all erosion and sediment controls on the site are inspected at least once every seven calendar days and within twenty-four hours after any precipitation event greater than one-half inch of precipitation in a twenty-four hour period. In addition, qualified inspection personnel provided by the owner or operator shall conduct a weekly inspection of the construction site to identify areas contributing to stormwater discharges associated with construction activity and evaluate whether measures associated with erosion and control of pollutant loadings identified in a stormwater pollution prevention plan are adequate and properly implemented. Disturbed areas and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of, or the potential for, pollutants entering the drainage system. Erosion and sediment control measures identified in the plan shall be observed to ensure that they are operating correctly. Discharge locations shall be inspected to determine whether erosion and sediment control measures are effective in preventing significant impacts to the receiving waters. Locations where vehicles enter or exit the site shall be inspected for evidence of off-site vehicle tracking.

(11) Notice of termination.

(a) Once the construction activity is completed, the permittee shall submit notice to the department of agriculture within thirty days after final site stabilization has been achieved. Final site stabilization is considered achieved once all temporary erosion and sediment control practices are removed and disposed of and all trapped sediment has been permanently stabilized to prevent further erosion.

(b) The stormwater pollution prevention plan shall contain the following:

(i) Erosion and sediment control practices;

(ii) Permanent stormwater management practices to be used to control pollutants in stormwater after construction operations have been completed.

[Comment: These measures should be compatible with paragraph (F) of rule 901:10-2-04 of the Administrative Code.]

(c) The owner or operator shall amend the plan whenever there is a change in design, construction, operation or maintenance, which has a significant effect on the potential for the discharge of pollutants to waters of the state and shall record such changes in the operating record required by rule 901:10-2-16 of the Administrative Code. If the stormwater pollution prevention plan proves to be ineffective in achieving the general objectives of controlling pollutants in stormwater discharges associated with construction activity, the owner or operator may change the plan, provided such changes are recorded in the operating record.

(d) The owner or operator shall inform all contractors and subcontractors who will be involved in the implementation of the stormwater pollution prevention plan of the terms and conditions of the permit that authorizes the discharges.

) Requirements for general and individual stormwater permits.

(1) A stormwater pollution prevention plan shall be developed for the production area of each facility required to have a stormwater permit.

(a) The stormwater pollution plan shall comply with and be submitted as part of paragraph (F) of rule 901:10-2-04 of the Administrative Code and the application for a permit to install. The stormwater pollution plan shall contain spill prevention and good housekeeping techniques, along with plans to divert clean water. Spill prevention and good housekeeping techniques, along with diversion of clean water, shall be used to ensure that uncontained storm water from the production area is not contaminated by manure and to ensure that storm water discharges from the following areas maintain Ohio water quality standards in the receiving waters of the state: immediate access roads and rail lines used or traveled by carriers of raw materials, products, waste material, or by-products used or created by the CAFO; refuse sites; sites used for the storage and maintenance of material handling equipment; and shipping and receiving areas. Storm water that is contaminated by manure or raw materials (such as silage) is process wastewater, which is included in the definition of manure and may only be discharged in accordance with a NPDES permit.

(b) The stormwater pollution plan shall be included with the conditions of a NPDES permit which shall require compliance with the stormwater pollution plan as expeditiously as practicable, but in no event later than three years after the date of issuance of the permit.

(2) Fees. A one-time fee must be submitted with the application in accordance with rule 901:10-1-04 of the Administrative Code. The owner or operator will indicate on the application whether the stormwater permit is to be a general or individual permit.

(3) Transfer. A stormwater permit is transferable as part of a NPDES permit. The owner or operator shall notify the department of agriculture in writing sixty days prior to any proposed transfer. The transferee must inform the department of agriculture in writing that he or she will assume the responsibilities of the original transferor.

(4) Inspections and record keeping. The facility shall implement the best management practices, including inspections, in rule 901:10-2-08 of the Administrative Code and shall maintain records specified in rule 901:10-2-16 of the Administrative Code.

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